

The House Committee on Judiciary offers the following substitute to HB 334:

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 6 of Title 15 and Article 1 of Chapter 17 of Title 45 of the
2 Official Code of Georgia Annotated, relating to clerks of superior courts and general
3 provisions regarding notaries public, respectively, so as to provide for remote online notaries
4 public and remote online notarizations; to provide for and revise definitions; to revise the
5 powers of the Georgia Superior Court Clerks' Cooperative Authority; to provide for
6 requirements for remote online notaries public and remote online notarization; to provide that
7 the Georgia Superior Court Clerks' Cooperative Authority may adopt certain standards for
8 remote online notarization; to provide for application and appointment as a remote online
9 notary public; to provide requirements for electronic journaling; to amend Part 2 of Article
10 15 of Chapter 1 of Title 10, Part 1 of Article 1 of Chapter 2 of Title 44 and Article 4 of
11 Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to the "Fair
12 Business Practices Act of 1975," recording of deeds and other real property transactions and
13 inspection of public records, respectively, so as to provide for an unfair or deceptive practice
14 in consumer transactions in the recording of certain residential real estate documents; revise
15 recordation standards for deeds and other real property transactions requiring an official and
16 an unofficial witness; to provide for electronic executions; to provide that certain records of
17 remote online notarization processes shall not be subject to public disclosure; to provide for

H. B. 334 (SUB)

- 1 -

18 related matters; to provide an effective date; to repeal conflicting laws; and for other
19 purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **PART I**
22 **SECTION 1-1.**

23 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to
24 clerks of superior courts, is amended by revising paragraphs (8) and (9) and by adding a new
25 paragraph to subsection (d) of Code Section 15-6-94, relating to the Georgia Superior Court
26 Clerks' Cooperative Authority, as follows:

27 "(8) To exercise any power granted by the laws of this state to public or private
28 corporations which is not in conflict with the public purpose of the authority; ~~and~~
29 (9) To issue technical standards for remote online notarization pursuant to Article 1 of
30 Chapter 17 of Title 45; and
31 ~~(9)(10)~~ To do all things necessary or convenient to carry out the powers conferred by this
32 Code section and to carry out such duties and activities as are specifically imposed upon
33 the authority by law."

34 **SECTION 1-2.**

35 Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating to
36 general provisions regarding notaries public, is amended by revising Code Section 45-17-1,
37 relating to definitions, as follows:

38 "45-17-1.

39 As used in this article, the term:

40 (1) 'Appear', 'personally appear', and 'in the presence of' mean:

41 (A) Being in the same physical location as another individual and close enough to see,
42 hear, communicate with, and exchange tangible identification credentials with such
43 individual; or

44 (B) Interacting with another individual by means of communication technology that
45 complies with the provisions of this article.

46 (2) 'Attesting', ~~and~~ 'attestation', and 'attested' are synonymous and mean the notarial act
47 of witnessing or attesting a signature or execution of a deed or other written instrument,
48 where such notarial act does not involve the taking of an acknowledgment, the
49 administering of an oath or affirmation, the taking of a verification, or the certification
50 of a copy.

51 (3) 'Communication technology' means an electronic device or process that allows a
52 remote online notary public physically located in this state and a remotely located
53 individual to communicate with each other simultaneously by sight and sound and which,
54 as necessary, makes reasonable accommodations for individuals with vision, hearing, or
55 speech impediments.

56 (4) 'Credential analysis' means a process or service operating according to the standards
57 through which a third person or entity affirms the validity of a government issued
58 identification credential through review of public or proprietary data sources.

59 (5) 'Digital signature' means an electronic signature that embeds registered personal key
60 infrastructure technology into the signing process and provides for the authentication of
61 the identity of a remote online notary public, confirmation of the signed document's
62 contents, and for the nonrepudiation of the notary's electronic signature. The digital
63 signature shall be made pursuant to and associated with a digital certificate issued by a
64 trusted service provider which is attached to or logically associated with an electronic
65 document and adopted by a notary public with the intent to sign an electronic document
66 in the official capacity as a notary. A digital signature means an electronic signature that
67 is, and shall be, made in compliance with the standards adopted pursuant to this article

by the Georgia Superior Court Clerks' Cooperative Authority based on the Digital Signature Standard (DSS) of the National Institute of Standards and Technology (NIST).

(6) 'Electronic' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(7) 'Electronic document' and 'electronic record' mean information that is created, generated, sent, communicated, received, or stored by electronic means.

(8) 'Electronic journal' means a record kept by the remote online notary public to track and document every notarial act performed, as provided by subsection (a) of Code Section 45-17-8.5.

(9) 'Electronic in-person notarization' means the notarization of an electronic record when the signer or signers of the record are in the physical presence of the notary public and that include the notary's electronic notarial certificate, the notary's digital signature, and electronic signatures of each signer.

(10) 'Electronic notarial certificate' means the electronic form of an acknowledgment, jurat, verification by oath or affirmation, or verification of witness or attestation that is completed by a notary performing an electronic in-person notarization and:

(A) Contains the notary public's digital signature, electronic seal, title, and commission expiration date; or

(B) Otherwise conforms to the requirements for an acknowledgment, jurat, verification by oath or affirmation, or verification of witness or attestation under the laws of this state.

(11) 'Electronic seal' means information within a notarized electronic document that confirms the remote online notary public's, or electronic in person notary public's, name, jurisdiction, commission expiration date, commission number, and otherwise generally corresponds to information in notary public seals used on paper documents.

(12) 'Electronic signature' means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by an individual with the intent to sign the electronic document or record.

(13) 'Identity proofing' means a process or service operating pursuant to the standards through which credential analysis and authentication confirms the identity of an individual.

~~(2)~~(14) 'Notarial act' means any act that a notary public is authorized by law to perform and includes, without limitation, attestation, the taking of an acknowledgment, the administration of an oath or affirmation, the taking of a verification upon an oath or affirmation, and the certification of a copy.

~~(3)~~(15) 'Notarial certificate' means the notary's documentation of a notarial act.

(16) 'Notary' and 'notary public' mean a person who has been appointed by a clerk of superior court pursuant to Code Section 45-17-2.3.

(17) 'Original appointment' means a notary public appointment other than a remote online notary public appointment.

(18) 'Real estate document' means any instrument, document, or deed entitled to recordation in the real property records or lien indices or recording records maintained by the clerk of superior court, and any instrument or document executed in connection with the conveyance of land whether recorded or not.

(19) 'Remote online notarial certificate' is the electronic form of an acknowledgment, jurat, verification by oath or affirmation, or verification of witness or attestation that is completed by a remote online notary public performing a remote online notarization and:

(A) Contains the remote online notary public's digital signature, electronic seal, title, and commission expiration date;

(B) Contains the date and location address of the signer or signers and the location of the remote online notary public;

(C) Contains a statement that the signer or signers executing the electronic document or making the acknowledgment, oath, affirmation, verification, or attestation appeared remotely online;

(D) Otherwise conforms to the requirements for an acknowledgment, jurat, verification by oath or affirmation, verification of witness or attestation under the laws of this state; and

(E) Contains a statement that the signer or signers affirmatively agreed to electronic execution and remote online notarization.

(20) 'Remote online notarization' or 'remote online notarial act' means a notarial act performed by a remote online notary public by means of communication technology according to the provisions of this article.

(21) 'Remote online notary public' means a notary public who has been commissioned as a remote online notary public to perform online notarizations under this article.

(22) 'Remote presentation' means transmission to the remote online notary public through communication technology of an image of a government issued identification credential that is of sufficient quality to enable the remote online notary public to:

(A) Identify the individual seeking the remote online notary public's services; and

(B) Perform credential analysis.

(23) 'Remotely located individual' means an individual who is not in the physical presence of the remote online notary public.

(24) 'Repository' means a third-party business entity authorized to transact business in this state that is in the business of retaining electronic journals and audiovisual copies of remote online notarizations according to Code Section 45-17-8.5.

(25) 'Signer' means an individual whose electronic signature is notarized in an electronic in-person notarization or a remote online notarization or is making an oath or affirmation or an acknowledgment, other than in the capacity of a witness, for a document which is to be notarized by an electronic in-person notarization or a remote online notarization.

(26) 'Standards' means the remote online notary standards as shall be adopted by the Georgia Superior Court Clerks' Cooperative Authority."

SECTION 1-3.

Said article is further amended by revising Code Section 45-17-6, relating to seal of office, as follows:

"45-17-6.

(a)(1) For the authentication of his or her notarial acts, each notary public must provide a seal of office, which seal shall have for its impression ~~his~~ the notary's name, the words 'Notary Public,' the name of the state, and the county of ~~his residence~~ the notary's appointment; or it shall have for its impression ~~his~~ the notary's name and the words 'Notary Public, Georgia, State at Large.' Notaries commissioned or renewing their commission after July 1, 1985, shall provide a seal of office which shall have for its impression the notary's name, the words 'Notary Public,' the name of the state, and the county of ~~his~~ the notary's appointment. The embossment of notarial certificates by the notary's seal shall be authorized but not necessary; and the use of a rubber or other type stamp shall be sufficient for imprinting the notary's seal on paper notarial certificates. A scrawl shall not be a sufficient notary seal. An official notarial act must be documented by the notary's seal. An electronic seal shall be used for purposes of any electronic in-person notarization or remote online notarization.

(2) No document executed prior to July 1, 1986, which would otherwise be eligible for recording in the real property records maintained by any clerk of superior court or constitute record notice or actual notice of any matter to any person shall be ineligible for recording or fail to constitute such notice because of noncompliance with the requirement that the document contain a notary seal.

(b) It shall be unlawful for any person, firm, or corporation to supply a notary public seal to any person unless the person has presented the duplicate original of the certificate

commissioning the person as a notary public. It shall be unlawful for any person to order or obtain a notary public seal unless such person is commissioned as a notary public."

SECTION 1-4.

Said article is further amended by revising subsection (a) of Code Section 45-17-8.1, relating to signature and date of notarial act, as follows:

"(a) Except as otherwise provided in this Code section, in documenting a notarial act, a notary public shall sign on the notarial certification, digitally in the case of electronic in-person notarization or remote online notarization or by hand in ink in all other cases, only and exactly the name indicated on the notary's commission and shall record on the notarial certification the exact date of the notarial act."

SECTION 1-5.

Said article is further amended by adding new Code sections to read as follows:

"45-17-8.3.

(a) Prior to January 1, 2022, the Georgia Superior Court Clerks' Cooperative Authority shall adopt standards for remote online notarization in accordance with this article.

(b) The Georgia Superior Court Clerks' Cooperative Authority may confer with any appropriate state agency on matters relating to equipment, security, and technological aspects of the remote online notarization standards.

(c) In the adoption of any standards it may adopt pursuant to this article, the Georgia Superior Court Clerks' Cooperative Authority shall consider the most recent standards established by relevant national bodies, such as the Mortgage Industry Standards Maintenance Organization (MISMO) and the National Association of Secretaries of State (NASS).

45-17-8.4

(a) Appointment as a notary public in this state shall be a requirement and condition precedent for appointment as a remote online notary public.

(b) Before each application for appointment as a remote online notary public, an individual shall complete a course of instruction provided by the Georgia Superior Court Clerks' Cooperative Authority and pass an examination based on such course. The content of the course shall include notarial standards and procedures, the standards, and ethical obligations pertaining to electronic in-person notarization and remote online notarization in this article or in any other law. Such course may be taken in conjunction with any course required by the clerk of superior court for an original appointment. The standards for such course shall be developed and maintained and administered by the Georgia Superior Court Clerks' Cooperative Authority.

(c) Except for a remote online notary public as appointed under subsection (h) of this Code section, effective January 1, 2022, an individual who meets the qualifications for becoming a notary public of this state desiring to be appointed as a remote online notary public shall submit an application to the clerk of superior court of the county of the applicant's current residence. In the event that such applicant is the holder of an unexpired notary commission issued from a county other than the county of the applicant's current residence, such applicant shall officially resign the unexpired commission and make new application to the clerk of superior court for the county of current residence for both a notary commission and commission as a remote online notary public. An application may request both an original appointment or renewal and a remote online notary public appointment. The application for a remote online notary public appointment shall set forth the declaration that the notary meets the qualifications for remote online notarization as provided by this article. Such application shall include, but shall not be limited to:

(1) The applicant's legal name to be used in acting as a notary public;

(2) Email address of the applicant;

222 (3) Telephone number of the applicant;

223 (4) Proof of successful completion by the applicant of the course and examination
224 required by subsection (b) of this Code section;

225 (5) A physical residential address of the applicant in this state if a resident of this state;

226 (6) The business address of the applicant in this state if the applicant is a resident of a
227 state bordering this state who maintains a business or profession in the State of Georgia
228 or who is regularly employed in this state.

229 (7) Evidence that the notary surety bond prescribed by this article for the performance
230 or remote online notarial acts has been issued;

231 (8) The identity of the technology provider the remote online notary public intends to use
232 for remote online notarization and the repository to be used by such notary for
233 maintenance of his or her electronic journal and audiovisual recordings. The technology
234 provider, communication technology, and repository selected by the remote online notary
235 public must conform to standards;

236 (9) A certification that the applicant will comply with this article and the standards;

237 (10) Disclosure of any and all license or commission revocations or other governmental
238 disciplinary actions against the applicant; and

239 (11) Any other information, evidence, or declaration requested by the clerk of superior
240 court.

241 (d) The fee for submitting an application for appointment as a remote online notary shall
242 be the same fee as for an application for an original appointment pursuant to Code Section
243 45-17-4. One fee shall be collected for:

244 (1) An application for a commission as a remote online notary public;

245 (2) An application for a notary commission renewal and a commission as a remote online
246 notary public; or

247 (3) An application for an original or new notary commission and commission as a remote
248 online notary public.

(e) Upon the applicant's fulfillment of the requirements for appointment under this chapter, the clerk of superior court may approve or deny the appointment based on the provisions of this article and Code Section 45-17-2.3, and upon approval shall issue to the applicant a commission as a remote online notary public and a unique remote online notary public commission number.

(f) Unless terminated pursuant to this article, the term of commission to perform remote online notarization shall coincide with the term of the original appointment or any renewal thereof.

(g) Upon approval of the application to be appointed a remote online notary public by the clerk of superior court, such notary shall:

(1) Be authorized to perform remote online notarization pursuant to this article;

(2) Maintain a notary surety bond in the amount of \$2,000.00;

(3) Except for a remote online notary public as appointed under subsection (h) of this Code section, maintain a residential domicile and physical presence in this state; and

(4) Promptly notify the appointing clerk of superior court, with a copy to the Georgia Superior Court Clerks' Cooperative Authority, of any change in the information provided in the remote online notary public application, including, but not limited to, legal name, email address, telephone number, physical residential address, any change in the technology or repository provider used by such online notary public, and the name and address of the repository used by such remote online notary public for maintenance of his or her electronic journal.

(h)(1) Any person who is a resident of a state bordering on the State of Georgia and who carries on a business or profession in the State of Georgia or who is regularly employed in this state may be commissioned as a remote online notary public by the clerk of the superior court of the county in which the person carries on said profession, business, or employment.

(2) Such person wishing to be commissioned as a remote online notary public must meet all the requirements of Code Section 45-17-2 as to an original appointment and this article as to a remote online notary public appointment.

(3) In addition to the submission requirements for an original appointment under Code Section 45-17-2.1, such individual shall submit the application for a remote online notary public as required in this article to the clerk of superior court in the county in which such individual carries on such profession, business, or employment. The clerk of superior court shall approve or deny such application based on the provisions of this article and Code Section 45-17-2.3. Upon approval and payment of the usual fees to the clerk, the applicant shall be issued a unique remote online notary public commission number and shall be authorized to perform all duties and exercise all of the powers and authorities relating to remote online notary publics who are residents of this state.

45-17-8.5

(a) Each remote online notary public shall keep a secure, permanent, tamper-evident electronic journal in accordance with this article and the standards with entries for each remote online notarization. A journal entry shall at a minimum include the:

(1) Date and time of the remote online notarization;

(2) Type of remote online notarial act;

(3) Type, title, or description of the electronic document or proceeding;

(4) Name and address of each signer involved in the transaction or proceeding, notarized by such notary;

(5) Confirmation of identify based on evidence of identity presented for each signer involved in the transaction or proceeding in the form of:

(A) Notation of the type of identification document provided to the remote online notary public pursuant to the credential analysis; and

(B) A description and results of each identity proofing performed;

301 (6) Physical location of the signer or signers of the document at the time of notarization;

302 (7) Physical location of the remote online notary public at the time of remote online
303 notarization; and

304 (8) The fee, if any, charged for the remote online notarization.

305 (b) The electronic journal shall be retained and maintained for at least ten years after the
306 date of the last remote online notarial transaction performed.

307 (c) Each remote online notary public shall cause an electronic copy of each electronic
308 journal entry to be promptly transmitted to and retained by a repository for retention. Each
309 repository receiving any journal or journal entry shall securely retain and maintain such
310 electronic journal for a minimum of ten years following the last submission of an electronic
311 journal entry by a remote online notary public.

312 (d) Each remote online notary public shall create an audiovisual recording of the
313 performance of the remote online notarial act as evidence of participant identity, type of
314 participant identification presented, and the validity of the notarial act.

315 (e) Each remote online notary public shall cause an electronic copy of each audiovisual
316 recording to be immediately transmitted to and retained by a repository. Each repository
317 receiving any audiovisual recording shall securely retain and maintain such audiovisual
318 recording for a minimum of ten years following submission of the last audiovisual
319 recording submitted by a remote online notary public.

320 (f)(1) When adopting standards regarding remote online notarization, the Georgia
321 Superior Court Clerks' Cooperative Authority shall consider the most recent guidance or
322 model standards proposed by relevant organizations recognized in such field of practice,
323 including, but not limited to, the Mortgage Industry Standards Maintenance Organization
324 (MISMO) and the National Association of Secretaries of State (NASS).

325 (2) When adopting standards regarding digital signatures, the Georgia Superior Court
326 Clerks' Cooperative Authority shall consider the most recent guidance or model standards
327 proposed by relevant organizations recognized in such field of practice, including, but not

limited to, the Digital Signature Standard (DSS) of the National Institute of Standards and Technology (NIST).

(g) A remote online notary public shall take reasonable steps to:

- (1) Ensure the integrity, security, and authenticity of each remote online notarization;
- (2) Maintain a backup of each electronic journal required by subsection (a) of this Code section and the recording required by subsection (d) of this Code section; and
- (3) Protect the backup record from unauthorized use.

45-17-8.6

(a) A notary public physically located in this state may perform electronic in-person notarization in accordance with this article and the standards for an individual who is in the physical presence of the notary public.

(b) A remote online notary public physically located in this state may perform remote online notarization using communication technology in accordance with this article and the standards for a remotely located individual who is physically located:

(1) In this state;

(2) Outside this state but within the United States; or

(3) Outside the United States if:

(A) The remote online notary public has no actual knowledge that the act of making the statement or signing the electronic record is prohibited in the jurisdiction in which the person is located; and

(B) The signer placing his or her electronic signature on the electronic record confirms to the remote online notary public that the requested remote online notarial act and the electronic record:

(i) Are part of or pertain to a matter that is to be filed with or is currently before a court, governmental entity, or other entity in the United States;

(ii) Relate to property located in the United States; or

(iii) Relate to a transaction that is substantively connected to the United States.

45-17-8.7.

(a) A notary public and a remote online notary public shall take reasonable steps to ensure that any registered device or digital certificate used to create an electronic signature or the notary's or remote online notary public's digital signature is current, valid, and has not been revoked or terminated by the device's or certificate's issuing or registering authority.

(b) The duties of the notary public and the remote online notary public, in addition to the duties provided for in Code Section 45-17-8, are to:

(1) Keep his or her electronic record, electronic signature, and electronic seal secure and under his or her exclusive control;

(2) Not allow another person to use his or her electronic record, digital signature, or electronic seal. A remote online notary public may use such remote online notary public's digital signature only for performing electronic in-person notarization or remote online notarization and a notary public may use such notary public's digital signature only for performing electronic in-person notarization;

(3) Attach his or her digital signature and seal to the remote online notarial certificate of an electronic document in a manner that is conducive to independent verification and renders evident any subsequent change or modification to the electronic document; and

(4) Immediately notify an appropriate law enforcement agency and appointing clerk of superior court, with a copy to the Georgia Superior Court Clerks' Cooperative Authority, of the theft or vandalism of such notary's or remote online notary public's electronic record, digital signature, or electronic seal. A notary public or a remote online notary public shall immediately notify the appointing clerk of superior court, with a copy to the Georgia Superior Court Clerks' Cooperative Authority, if his or her electronic record, digital signature, or electronic seal has been lost or used by another person.

45-17-8.8

(a) In performing a remote online notarization, a remote online notary public shall verify the identity of a signer creating an electronic signature at the time that the signature is taken by using secure communication technology that meets the requirements of this article and any standards adopted under this article; provided, however, that a failure to provide an accommodation shall not invalidate an otherwise valid notarial act. Identity shall be verified by each of the following:

(1) Remote presentation by the person creating the electronic signature of a valid government issued identification credential, including a passport or driver's license, that contains the signature and a photograph of the person;

(2) Credential analysis; and

(3) Successful verified identity proofing.

(b) The remote online notary public's communication technology provider and repository shall take reasonable steps to ensure that the communication technology used for a remote online notarization is secure from unauthorized interception. Each provider of communication technology products or services for remote online notarization in this state shall cause such products or services to comply with all provisions of this article and the standards relating to remote online notarization. Prior to providing remote online notary public products or services, a communication technology provider shall present a certificate of compliance to the remote online notary public affirming that such products and services comply with the provisions of this article and the standards pursuant to this article.

(c) A remote online notary public shall require his or her communication technology provider used to comply with the provisions of this article and the standards.

(d) A remote online notarial act meeting the provisions of this Code section satisfies the requirement of any law of this state relating to a notarial act that requires a signer to appear or personally appear before a notary or that the notarial act be performed in the presence

of a notary, except for a notarial act pursuant to a law governing the creation and execution of wills, codicils, or testamentary trusts.

(e) An electronic document executed by a signer and notarized under this article by a remote online notary public is deemed to be executed in this state.

45-17-8.9.

(a) A remote online notary public or the remote online notary public's employer may charge a fee for performance of remote online notarization in an amount not to exceed \$25.00 per remote online notarization.

(b) A notary public or a remote online notary public whose commission terminates shall destroy or delete the coding, disk, certificate, card, software, hardware, or password that enables the electronic affixation of the notary public's or remote online notary public's official digital signature and electronic seal.

(c) Any person that, without authorization, knowingly obtains, conceals, damages, destroys, or deletes the coding, disk, certificate, card, software, hardware, or password enabling a notary public or a remote online notary public to affix a digital signature or electronic seal shall, upon conviction thereof, be guilty of a misdemeanor and punished pursuant to Code Section 45-17-20.

45-17-8.10.

(a) Nothing in this article shall be construed to alter or supersede the law as set forth under Article 3 of Chapter 19 of Title 15 or any opinion or ruling by the Supreme Court of Georgia pertaining to the unauthorized practice of law in this state, including, but not limited to, the requirement that a licensed Georgia attorney shall supervise a real estate closing for real property located in this state.

(b) A remote online notary public who is not a licensed Georgia attorney shall be prohibited from rendering services or advice that constitutes the practice of law in this state.

45-17-8.11.

(a) Any public official in this state, including all public officials of county and municipal government entities, shall be authorized to accept as an original a reproduction of any document executed using electronic signatures or electronic signatures and remote online notarization.

(b) Any requirement that an instrument, document, or real estate document be attested or acknowledged by a notary public and the requirement of confirmation of identity of the document signer, oath taker, or affirmant contained in 45-17-8 is satisfied by a remote online notarial act or an electronic in-person notarial act meeting the requirements of this article.

(c) A remote online notarial act performed by a remote online notary public commissioned or registered in another state has the same effect under the laws of this state as if performed by a notary public appointed in this state.

(d) A notary public or a remote online notary public shall not perform any notarial act by electronic in-person notarization or remote online notarial act by remote online notarization if the notarial act or remote online notarial act is pursuant to a law governing the creation and execution of any will, codicil or testamentary trust.

SECTION 1-6.

Said article is further amended by revising Code Section 45-17-9, relating to where notarial acts may be exercised, as follows:

451 "45-17-9.
452 Notarial acts or remote online notarial acts may be exercised in or from any county in ~~the~~
453 this state."

454 **SECTION 1-7.**

455 Said article is further amended by revising Code Section 45-17-17, relating to resignation of
456 commission, return of papers, and destruction of seal, as follows:

457 "45-17-17.

458 A person who wishes to resign a notarial commission or remote online notarial commission
459 shall send a signed letter of resignation to the appointing clerk of superior court, with a
460 copy to the Georgia Superior Court Clerks' Cooperative Authority, and all papers of
461 appointment. The resigning notary public or remote online notary public shall destroy or
462 delete the official notarial seal."

463 **SECTION 1-8.**

464 Said article is further amended by revising Code Section 45-17-18, relating to the resignation
465 of commission, return of papers, and destruction of seal, as follows:

466 "45-17-18.

467 A notary public or remote online notary public whose commission expires and who does
468 not apply for renewal of such commission or whose application for renewal of a
469 commission is denied shall destroy or delete the official notary seal."

470 **PART II**

471 **SECTION 2-1.**

472 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
473 relating to the "Fair Business Practices Act of 1975," is amended by revising paragraphs (33)

474 and (34) of, and adding a new paragraph to, subsection (b) of Code Section 10-1-393,
475 relating to unfair or deceptive practices in consumer transactions unlawful and examples, as
476 follows:

477 "(33)(A) For any person, firm, partnership, association, or corporation to issue a gift
478 certificate, store gift card, or general use gift card without:

479 (i) Including the terms of the gift certificate, store gift card, or general use gift card
480 in the packaging which accompanies the certificate or card at the time of purchase,
481 as well as making such terms available upon request; and

482 (ii) Conspicuously printing the expiration date, if applicable, on the certificate or card
483 and conspicuously printing the amount of any dormancy or nonuse fees on:

484 (I) The certificate or card; or

485 (II) A sticker affixed to the certificate or card.

486 A gift certificate, store gift card, or general use gift card shall be valid in accordance
487 with its terms in exchange for merchandise or services.

488 (B) As used in this paragraph, the term:

489 (i) 'General use gift card' means a plastic card or other electronic payment device
490 which is usable at multiple, unaffiliated merchants or service providers; is issued in
491 an amount which amount may or may not be, at the option of the issuer, increased in
492 value or reloaded if requested by the holder; is purchased or loaded on a prepaid basis
493 by a consumer; and is honored upon presentation by merchants for goods or services.

494 (ii) 'Gift certificate' means a written promise that is usable at a single merchant or an
495 affiliated group of merchants that share the same name, mark, or logo; is issued in a
496 specified amount and cannot be increased in value on the face thereof; is purchased
497 on a prepaid basis by a consumer in exchange for payment; and is honored upon
498 presentation for goods or services by such single merchant or affiliated group of
499 merchants that share the same name, mark, or logo.

(iii) 'Store gift card' means a plastic card or other electronic payment device which is usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo; is issued in a specified amount and may or may not be increased in value or reloaded; is purchased on a prepaid basis by a consumer in exchange for payment; and is honored upon presentation for goods or services by such single merchant or affiliated group of merchants that share the same name, mark, or logo; and

(34) For any person, firm, partnership, business, association, or corporation to willfully and knowingly accept or use an individual taxpayer identification number issued by the Internal Revenue Service for fraudulent purposes and in violation of federal law; and

(35) Knowingly presenting for recording a one-to-four family residential real estate document to the clerk of superior court that the presenter knew at the time of presentation resulted from actions that constitute the unauthorized practice of law in violation of paragraph (2) of Code Section 15-19-50 or paragraph (4) of Code Section 15-19-50 or any advisory opinions issued by the Supreme Court of Georgia related to such paragraphs."

SECTION 2-2.

Part 1 of Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to recording of deeds and other real property transactions, is amended by adding a new subsection to Code Section 44-2-14, relating to requirements for recordation, to read as follows:

"(e) Any instrument presented to the clerk of superior court for recordation that requires an official and an unofficial witness may be admitted to record if the apparent signatures of both witnesses and any required seals are present on or in such document. The clerk shall have no further duty to examine the circumstances of the witnessing, or witnesses, method or location of same."

SECTION 2-3.

Said part is further amended by adding a new Code section to read as follows:

"44-2-31.

(a) Any requirement that an instrument, document, deed or real estate document be witnessed, attested, or acknowledged by an unofficial witness is satisfied if:

(1) The witness is physically present with the signer, personally sees the signer execute the instrument, document, or deed and executes the instrument, document, or deed by hand in ink; or

(2) The witness is physically present with the signer, personally sees the signer electronically execute the instrument, document, or real estate document, or is physically present in this state and sees the signer electronically execute the instrument, document, or real estate document by the use of communication technology in accordance with Chapter 17 of Title 45, and electronically executes the instrument, document, or real estate document by the use of communication technology in accordance with Chapter 17 of Title 45.

(b) Terms used in this Code Section shall have the same meanings as provided for in Code Section 45-17-1."

SECTION 2-4.

Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to inspection of public records, is amended by revising paragraph (12) of subsection (a) of Code Section 50-18-72, relating to when public disclosure not required, as follows:

"(12) Records consisting of any audiovisual recording of the performance of a remote online notarization process as provided for by Code Section 45-17-8.5 Reserved;"

549

PART III

550

SECTION 3-1.

551 This Act shall become effective upon its approval by the Governor or upon its becoming law
552 without such approval.

553

SECTION 3-2.

554 All laws and parts of laws in conflict with this Act are repealed.